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November 15, 1995

Hand Deliver

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, DC 20554

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Dear Mr. Caton:

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On behalf of Capital Cities/ABC, Inc., transmitted herewith for filing with the Commission are an original and ten copies of its Reply Comments in MM Docket No. 93-48.

If there are any questions in connection with the foregoing, please contact the undersigned.

Sincerely,

John Zucker

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Enclosures

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Before the  
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In the Matter )  
Policies and Rules Concerning )  
Children's Television Programming )  
Revisions of Programming Policies )  
for Television Broadcast Stations )

MM Docket No. 93-48

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TO: The Commission

**REPLY COMMENTS OF CAPITAL CITIES/ABC, INC.**

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**REPLY COMMENTS OF CAPITAL CITIES/ABC, INC.**

Capital Cities/ABC Inc. ("Capital Cities/ABC") respectfully submits these Reply Comments in MM Docket No.93-48.

In our Comments in this proceeding, we urged, inter alia, that:

- The Commission should not establish a fixed number of hours of educational children's programming that every broadcaster must air, either as a minimum requirement or a processing guideline, since such a quantitative standard (i) would be at odds with the legislative intent behind the Children's Television Act, (ii) would disserve the public by encouraging program quantity at the expense of quality, (iii) would substantially encroach on broadcasters' editorial programming discretion, (iv) would raise substantial constitutional questions, and (v) is unnecessary in light of the documented increase in educational children's programming offered by broadcasters since adoption of the Act, see Comments of Capital Cities/ABC, Inc. ("Capital Cities/ABC Comments") at 29-

49;

- The Commission should not exclude or discount short-form segments, public service announcements, and periodic or special programming from its definition of "core" qualifying children's programming, since such segments and specials can be highly and distinctively valuable in serving children's educational and informational needs, id. at 22-28;

- Broadcasters should be encouraged to make more information about educational programming available to children and to parents through various means, including providing such information to program listing services and publications, but the implementation of this should be left to the discretion of broadcasters, id. at 13-16;

- The Commission may appropriately require that stations place their children's programming reports quarterly in a segregated place in their public file, and appoint a contact person to answer public questions and complaints about the station's compliance with the Act. Id. at 11-13.

We shall not address these points again in these Reply Comments. Nor shall we discuss further the surveys submitted by other parties that demonstrate the increasing amounts of educational and informational children's programming being made available to children by broadcasters across the country. See e.g., Comments of the National Association of Broadcasters at 5-10 and Attachment 1 thereto; Comments of the Association of Independent Television Stations, Inc. at 11-15 and Exhibit A

thereto; Letter from Fox Broadcasting Co. President Preston R. Padden, et al. in MM Docket No. 93-48, Oct. 26, 1995, and survey attached thereto.<sup>1</sup> Instead, we wish to discuss briefly three points raised by several commenters, regarding: (i) educational programming which is not "instructional," (ii) the age specificity of qualifying programming, and (iii) the desirability of on-air icons designating educational children's programs.

**1. The Commission Should Make Clear That Children's Programs Need Not Be Instructional or Scholastic in Order to Serve Children's Educational Interests or Qualify as "Core" Programming.**

A number of commenters continue to suggest that programs should be counted as "core" qualifying programs only if they serve children's intellectual needs through instructional or academic content. See, e.g., Comments of Center for Media Educational, et al., ("CME Comments") at 27; Kunkel Comments at 8-10.<sup>2</sup> Such an approach would be far too narrow and exclude much

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<sup>1</sup> We note that these surveys provide a much more comprehensive and recent account of broadcasters' programming performance than the study performed by Professor Kunkel. See Comments of Dale Kunkel ("Kunkel Comments") and study attached thereto. The Kunkel study included only 48 stations and looked at program reports no more recent than the first quarter of 1994 (the end of the 1993-94 television season). By contrast, the NAB survey included 278 stations and their programming in the fourth quarter of 1994 (the beginning of the 1994-95 season); the INTV survey included 78 stations and their programming for the first quarter of 1995; (the end of the 1994-95 season); and the Fox survey included 138 stations and their programming for the fourth quarter of 1995 (the beginning of the current 1995-96 season).

<sup>2</sup> We note that these commenters appear to have abandoned their earlier advocacy of a standard that would require that qualifying programs have education as their "primary" purpose.

worthy programming which contributes greatly to children's intellectual, social, and emotional development.

As we discussed in our comments, the Commission should instead reaffirm the breadth of its definition of "core" qualifying programming to include not only instructional programming of an essentially academic approach (e.g., "ABC Schoolhouse Rock"), but also programming that provides substantive information in a story-telling format (e.g., "Free Willy," which provides information about marine life, the environment, and scientific procedures), or, through stories, imparts valuable lessons in social behavior, ethical choices, or emotional development (e.g., "ABC Afterschool Specials," which explore ethically and socially difficult situations faced by teenagers, and "Winnie the Pooh and Friends," which presents basic fables about values and social situations in a story-telling form geared to a much younger audience).

A great deal of social research has demonstrated the strong benefits of these types of programming and their contributions to the positive cognitive, behavioral, and emotional development of children, from pre-school to teenagers.<sup>3</sup> They remain an

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Like Capital Cities/ABC, they appear now to support the Commission's proposal that education be a "significant" purpose of qualifying programs.

<sup>3</sup> See gen. O'Brien, L., "Educational and Informational Children's Television Programming: New Perspectives from the Educational Community, NAB Comments at Attachment 4 (reviewing recent academic literature). See also Murray, John P., "The Developing Child in a Multimedia Society," in Children and Television: Images in a Changing Sociocultural World at 17-18 (attached to Comments of Dr. John P. Murray) (noting educational

effective, appealing, and useful supplement to the more academic teachings of the classroom and of other, more instructionally oriented television programming. Their value was recognized by the Congressional sponsors of the Children's Television Act<sup>4</sup> and by the Commission itself in its initial Report and Order implementing the Act.<sup>5</sup> Any clarification of the definition of core programming should stress that, so long as education is a "significant" purpose of the program, such education may take either an academic or a story-telling form, and may serve either the intellectual or the emotional/social development of the child.

## **2. The Commission Should Not Require Greater Age Specificity in Qualifying Programs.**

Some commenters assert that the Commission should require that each qualifying program must be targeted to a "fairly narrow segment of the child population." Kunkel Comments at 9; see also benefits of programs such as "Fat Albert and the Cosby Kids" and "USA of Archie").

<sup>4</sup> As Senator Inouye emphasized, "educational and informational needs encompass not only [children's] intellectual development, but also the child's emotional and social development. Pro-social programming which assists children to discover more about themselves, their families, and the world would qualify." 136 Cong. Rec. at S10122 (July 19, 1990). Thus, the Senate committee report included among "worthwhile" children's programming that would qualify under the Act such non-instructional programs as "Winnie the Pooh and Friends," "Fat Albert and the Cosby Kids," and "the Smurfs." S. Rep. No. 227, 101st Cong., 1st Sess. 7-8 (1989).

<sup>5</sup> Children's Television Programming, 6 FCC Rcd 2111, 68 R.R.2d 1615 at ¶21 (1991).

CME Comments at 28; Comments of National Coalition on Television Violence at 3.

Capital Cities/ABC has no objection to a requirement that stations identify in their programming reports the target age group or groups for which a particular program is intended. As we discussed in our Comments, however, it is of great importance that such a rule not be applied in a way that would require the focusing of every program to a "fairly narrow" age group. While some programs may be intended for and appropriate to a relatively narrow age range, others are designed to appeal to a broad range of ages, often operating on several different levels to engage the interest of children of different ages, cognitive abilities, and developmental stages. Through the layering of program content, such programs can entertain and educate children of different age groups and sensibilities simultaneously.

A recent episode of the ABC Television Network program "Free Willy" entitled "Cry of the Dolphin" provides an example of this type of layering intended to reach both children aged 3-6 and children aged 7-11. Through the story of a young dolphin threatened by toxic dumping, the youngest viewers learn basic information about dolphin behavior and the dangers of chemical dumping in the oceans. To engage and educate older children, the program also contains more sophisticated information about the nature, detection, and prevention of chemical environmental hazards, and raises provocative issues about the interaction of humans and dolphins.

By appealing to a range of child age groups, programs can attract co-viewing by siblings separated by a number of years, who can derive enjoyment and information from the same program in different ways and, at the same time, benefit from their on-going social interaction and conversations about the program. A broadened appeal across different age groups can also provide a wider overall audience and a more viable economic base to support an educational children's program. The Commission should make clear that broadcasters may appropriately target educational programs across a broad age range by layering their educational and informational content.

**3. Broadcast Icons or Other On-Air Identifications of Educational Children's Programming Are Likely to Be Counter-Productive and Should Not Be Required.**

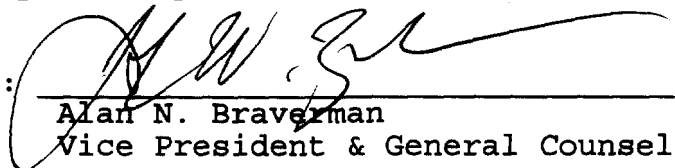
In our Comments, we urged the Commission not to require broadcasters to identify educational children's programs with broadcast icons or other on-air announcements or labels. Capital Cities/ABC Comments at 16. Such announcements or icons, we said, could well have the undesired and undesirable effect of deterring, rather than attracting, young viewers, who might conclude that a program so identified would be too instructional or academic to be enjoyable. Id.

We revisit this point here only to note that our concern about the impact of such on-air identifications has been shared in this proceeding not only by broadcasters (see, e.g., Comments of CBS Inc. at 7 n.6; Comments of National Broadcasting Company,

Inc. at 14-15; Comments of Warner Bros. Television Network, et al. at 13), but also by producers of educational children's programming, including the Children's Television Workshop ("[O]n-air educational icons...should be avoided. Such devices may suggest 'eat-your spinach' television to a child, and may 'turn him off' before he has given a program an opportunity to engage his attention." ).<sup>6</sup> This widespread agreement among broadcasters and producers that on-air icons or announcements would in practice deter children from watching educational programs provides powerful testimony against requiring their broadcast.

Respectfully submitted,

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<sup>6</sup> Comments of Children's Television Workshop at v; id. at 13-14.